

## About FSB Wales

FSB Wales is the authoritative voice of businesses in Wales, with around 10,000 members. It campaigns for a better social, political and economic environment in which to work and do business. With a strong grassroots structure, a Wales Policy Unit and dedicated Welsh staff to deal with Welsh institutions, media and politicians, FSB Wales makes its members' voices heard at the heart of the decision-making process.

Over the next few weeks, we will have another UK survey looking at SMEs and Brexit. We will be happy to share this evidence as it becomes available. This paper is based on our most recent data.

FSB does not have expertise in the administration of the UK immigration system. Our interest is in UK immigration policies and their outcomes for smaller employers following Brexit.

### What is your assessment of the implications for Wales of the UK Government's White Paper proposals on immigration after Brexit?

The White Paper's proposals looks to reconcile different needs and approaches to immigration post Brexit, and this is an understandably difficult task. How the tensions within the document are resolved will have very important implications for Wales.

For example, it states, "the future border and immigration system must be flexible enough to service a range of interests and to reflect the diverse needs of all parts of the UK and our existing devolution agreements". However, on the next page it states that immigration policy is reserved and that they agreed with the MAC's rejection of the need for regional immigration policies. This seems contradictory.

The White Paper acknowledges the need for flexibility in the process to ensure a strong skills base. We welcome that there will be no cap on skilled workers, and the rhetorical commitment to a simpler system to minimise red tape for SMEs. It

is a concern that placing a £30,000 threshold for migrant workers undermines these aims.

As such, we welcome some of the broad rhetorical commitments to a skills-based approach, and to a flexible system, but have some concerns about how they will be implemented in practical terms. We also have some particular concerns on aspects of the White Paper, especially with regard to the salary threshold and their effect on SMEs in Wales. These will become clear over the course of this response.

### Is there a case for allowing the devolved nations to do things differently in relation to immigration policy after Brexit?

There is a case for doing things differently, based around different polities, different skills needs, and regional disparities in terms of wages.

There are several reasons that would make a case for different approaches in the devolved nations on immigration policy:

- *Different needs:* In economic terms, Wales is dependent on sectors that employ larger numbers of EU27 staff – for instance, in tourism and hospitality, agriculture and manufacturing.<sup>1</sup>
- *Demography:* Wales has an older population, and is projected to be solely reliant on inward migration for future population growth.<sup>2</sup>
- *Wider Welsh policy* This links to wider policy levers held by Welsh government, to promote immigration as holistic policy making – for example, FSB welcome Welsh Government’s support for growing the ‘missing middle’ – growing the stock of medium sized firms in Wales – and a procurement policy that promotes community wealth and helps local SMEs. However, such policies require a strong skills base to fulfil demand, and immigration is important to fill skills gaps. 54% of FSB members in the UK say that a loss of skills by EU migrants could be a barrier to growing their business, and so hits at the heart of such Welsh policy.<sup>3</sup>

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<sup>1</sup> *A Skilful Exit* (FSB:2017), p 18; J Portes & G Forte, *Migration in Wales: The impact of post-Brexit policy changes* (Wales Centre for Public Policy: 2019), p 17

<sup>2</sup> *Migration in Wales* (WCPP: 2019), p 24

*A Skilful Exit* (FSB: 2017)

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- *Differential regional wages:* pay levels in Wales are lower than London and the South East – e.g. a typical gross salary in London is over £30,000. A typical Welsh salary is closer to £26,500,<sup>4</sup> and so the needs of Wales will be different according to local labour market forces.

### What are your views on the proposal for a Wales-specific Shortage Occupation List (“SOL”)?

There should be a SOL for Wales, on a similar basis to Scotland.

The Committee should explore whether, if the £30,000 threshold remains at the UK level, there is scope for use of SOL in order to mitigate the impact and to ensure the retention of mid-level skills.

Given the scope for disruption post Brexit, the SOL should be under continual review in the short term, both at the UK level and devolved level. These should also take into account unexpected knock on effects due to skills based inward migration in the UK.

A hypothetical example to illustrate this point may be in construction. In Wales, there is far less dependence on EU migrants in this sector than in London, but there remains a constant squeeze on skills. However, if Brexit were to lead to skills shortage in London, wage inflation may attract construction workers from Wales, leading to greater skills shortage here. Given the tight margins in the sector, this could have a severe impact. This illustrates some of the things that need to be monitored closely and continuously, and why a devolved SOL is useful.

A Welsh SOL should also be sensitive to regional needs. For example, in rural areas there may be a shortage in tourism and hospitality, but these may not register on a Wales wide analysis if there were no such issues in urban centres (such as Cardiff, Swansea, Newport, Wrexham etc.).

Even so, the use of SOL on such a basis has yet to be tested (for example in Scotland) for such use, and certainly not to the scope we are looking at here. As such, we would suggest that while this is something to be explored, and should be used, it cannot be relied upon as a silver bullet.

<https://gweddfill.gov.wales/statistics-and-research/annual-survey-hours-earnings/?lang=en>

A no-deal Brexit is now a distinct possibility. Concrete action is required to test, perhaps via a pilot project, whether a more flexible immigration system can work in practice, avoiding additional burdens for smaller employers in Wales and throughout the UK.

Such an action could include setting a different salary threshold for Tier 2 visas or revising and expanding the Shortage Occupation List.

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However, it may prove most productive to take inspiration from the recently launched seasonal workers pilot for agriculture - adopting something similar in key sectors, such as tourism and hospitality, for an initial two year period. Not only would this ease the workforce pressures faced by tourism businesses, a sector disproportionately reliant on EU staff, it would also assess in real-time if differentiation leads to greater costs and complexities for smaller employers.

**What are your views on the proposal to bring EU nationals into an expanded Tier 2, and ending any distinction between EU and non-EU workers?**

FSB has some concerns on this proposal. It may appear on the surface that it makes things bureaucratically simple to fall under one system, but what that would involve for an effective immigration policy that helps SMEs would be a substantial overhaul of the Tier 2 system which EU workers are being brought into.

The number of smaller businesses going through the tier two route are small, but the overwhelming message we have here is that the system is difficult, overly complex and highly bureaucratic. There is also potentially significant costs involved in this system to which SMEs are not currently accustomed.

An overwhelming majority of smaller employers in the UK have never made use of the UK's points-based immigration system (95%), as the majority have recruited EU workers from UK labour markets (85%).<sup>5</sup> As is presently constituted, the system to sponsor workers from outside the UK would be costly and onerous. This is particularly true for SMEs who will tend not to have HR departments to be able to deal with the complexities.

As such, there is a risk that this will hurt SMEs and business growth.

Our figures show that around 16% of our members in Wales employ EU nationals from outside the UK, with the vast majority of these employees being medium or high-skilled individuals (42.4% and 33% respectively).

This trend is broadly similar with the UK wide survey results and in particular shines a light on the importance EU mid skilled workers to small businesses.<sup>3</sup>

Our Welsh members report that they are hiring such individuals to fill gaps in their business that they are otherwise unable to fill, or that the individuals they are hiring fit well within the skills requirements for their business. We believe that this flexibility should continue to be available to all businesses, and that barriers to hiring skilled migrants should not be prohibitive to the smallest businesses.

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<sup>3</sup> *Making Brexit Work for Wales' Smaller Businesses* (FSB:2017), p 5

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We welcome that the White Paper acknowledges the need for the system to be light-touch and easy for SMEs to use – we look forward to seeing proposals on how this will be done practically beyond the following:

*“The new system will need to be accessible to the large number of businesses, particularly smaller enterprises, that have previously been able to hire migrant labour from the EU, without needing to engage with the existing sponsorship requirements. Therefore, we will need to make the system as straightforward and light touch as possible, and low cost to employers.”<sup>4</sup>*

It is for these reasons that FSB has welcomed the UK Government’s continued commitment to some form of transitional period and a phased introduction of any new immigration system, avoiding a scenario where smaller firms will be locked out of accessing the labour and skills they need. With a phased introduction, small firms must have the time they need to prepare. However, Brexit transition period is already being curtailed in the interim as we await a deal, with the cut-off point remaining at 31 December 2020, and the prospect of no deal makes everything more uncertain. Any system or deal needs to ensure stability over the long term, as employers need to know what changes are coming and when they are happening in order to plan for their skills needs. A transition period remains vital for this.

Beyond this, 3.4% of our surveyed members are EU nationals who own or operate business in Wales. Whilst this number is a small proportion, and we are unable to provide further analysis based on the size of the sub sample, the needs of these business owners in the transition should be further explored. Wales and the UK must remain an attractive place to set up a business for entrepreneurs from around the world.<sup>5</sup>

A no-deal is an increasing possibility. That Freedom of Movement could come to an abrupt end the day after a no-deal Brexit as stated by a UK Minister recently,<sup>6</sup> without a transition period for immigration policy to be put in place, is a major concern and would have a severe impact on SMEs.

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<sup>4</sup> *The UK’s future skills-based immigration system* (UK Government White Paper: 2018), p 13

<sup>5</sup> *Making Brexit Work for Wales’ Smaller Businesses* (FSB:2017), p 6

<sup>6</sup> Priti Patel, cited in ITV News: <https://www.itv.com/news/2019-08-19/number-10-freedom-of-movement-will-end-onoctober-31-if-there-is-no-brexite-deal/>

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## What are your views on the salary threshold of £30,000 for Tier 2 immigration and its implications for Wales?

This is the most worrying part of the White Paper, and arguably, goes against the grain of the stated aim of a skills-based immigration approach, particularly when it comes to regional disparities in wages, such as in Wales.

Our findings, and those of the Welsh Centre for Public Policy (WCPP) find that mid-level skills are the largest need in Wales – and such migrants are likely to come underneath the threshold.<sup>7</sup>

In the White Paper, the UK Government has said that the threshold is required because they want migrants “to raise productivity levels, make a positive contribution to public finances and ensure there is no downward pressures on wages.” The evidence for this approach as the central plank to policy is contradictory. The White Paper itself cites the Migratory Advisory Committee (MAC) on migrant labour, stating that “there is a lot of uncertainty about the impact of immigration on productivity, although most studies conclude there is a positive impact”.<sup>8</sup> Both the Migration Advisory Committee and WCPP paper show that the high and mid-level skilled migrant labour have no or a positive effect on the labour market, while stating they may have had a ‘minor’ impact on wages at the low skill level.<sup>9</sup> The evidence indicates that a threshold of £30,000 – in Wales at least – is arbitrary.

As noted, Pay levels in Wales are lower than London and the South East – e.g. a typical gross salary in London is over £30,000. A typical Welsh salary is closer to £26,500.<sup>10</sup> The pool of talent Wales can attract as compared to other regions would be smaller and would put Welsh SMEs at a competitive disadvantage for similar skills.

We would expect that raising the wages of mid-level skills to £30,000, coupled with the prospect of increased costs in recruiting EU workers, would be unsustainable for most smaller businesses. We will have further data on this following our upcoming survey.

The white paper itself notes that “the government believes that in some circumstances – for example where skills are in shortage – there should be some flexibility to allow migration at lower salary levels.”<sup>11</sup> It also recognises the needs of

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<sup>7</sup> *The UK’s future skills-based immigration system* (UK Government White Paper: 2018), p 48

<sup>8</sup> *ibid*

<sup>9</sup> *Migration in Wales* (WCPP: 2019), p ; White Paper, p 119-20

<sup>10</sup> <https://gweddill.gov.wales/statistics-and-research/annual-survey-hours-earnings/?lang=en>

<sup>11</sup> *The UK’s future skills-based immigration system* (UK Government White Paper: 2018), p 129

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start-ups to have lower salary workers at the outset, and we look forward to proposals that develop on this.<sup>12</sup>

It makes sense that the salary threshold reflects this labour market reality so that flexibility and regional needs are built into the system. Arguably, setting a different salary threshold would not affect the UK Government's drive to create a skills-based immigration system, because the underpinning qualifications framework would remain unchanged. In fact, you could argue that it is more in keeping with the government's intentions. Another approach would be to ensure that the SOL carries more weight than the salary threshold as an arbiter in a points system, but this would require careful planning, thorough engagement with the SME sector on its implementation, and so require a transition period.

Were this threshold to be maintained it would become practically impossible for the vast majority of small firms in Wales to access any non-UK labour. It would, as our UK Chair Mike Cherry stated, "cause serious disruption to the economy".

### How well is the EU Settlement Scheme operating? Is there more that the Welsh Government could be doing to ensure that EU nationals resident in Wales are registering under the scheme?

According to the latest official figures, over 900,000 people have applied for EU settled status so far. By the end of June 2019, the Home Office had processed 806,000 applications, granting full settled status in 65% of cases and pre-settled status in 35% of cases. The department says that nobody has been refused status outright.

As of July 31 2019, 15,600 applications had been received from Wales<sup>13</sup> - with approximately 80,000 EU citizens in Wales.<sup>14</sup>

The Home Office are not treating the refusal of settled status as an immigration decision, so applicants are not being refused settled status, they receive pre-settled status. The principle reason for being granted pre-settled instead of settled status is a failure to demonstrate five years' residence in the UK.

In relation to whether the Welsh Government can do more, there are questions whether government departments are communicating properly with each other, and with the public. Currently, awareness of the settled status scheme is limited,

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<sup>12</sup> Ibid, p 45-6

<sup>13</sup> EU Settlement Status Statistics (Home Office: July 2019)

<sup>14</sup> <https://gov.wales/package-of-support-for-eu-citizens-living-in-wales-announced>

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and it is plausible that campaigns in Wales could complement the UK level to provide a better understanding of the level of awareness in Wales.

The Welsh Government has a role to improve communications for EU citizens who reside in Wales, working with social partners, and FSB Wales are happy to help in this regard in engaging with members and employers on this issue.

The prospect of no deal raises more uncertainty about the status of residents who have not yet applied for settled (or pre-settled) status, so this is becoming a matter of some urgency, given that just over a quarter of EU citizens residing in Wales have applied.

### Are there any other issues relating to immigration policy after Brexit that you would like to bring to the attention of the Committee?

A significant portion of our members in Wales suggest that in response to restrictions on free movement of EU labour they will seek either to redouble efforts to attract and train UK workers or will seek to absorb the costs of a new immigration system. However, it is clear that smaller businesses will not be able to successfully absorb any cost. It is therefore essential that the UK Government seeks to ensure that the costs of any post Brexit work permitting system are minimal, and that the Welsh Government is able to provide appropriate training and education to meet our skills needs.

The current costs for recruiting through the Tier 2 system would be unsustainable for many smaller businesses and this needs addressing.

The White Paper also includes a proposal for a transitional measure for a “time limited route for temporary short-term workers. This route will allow people to come for a maximum of 12 months, with a cooling-off period of a further 12 months to prevent people effectively working in the UK permanently.”<sup>15</sup>

While this could potentially help employers adjust to a post-Brexit immigration system, there are aspects that may make it less appealing. Small businesses often recruit staff for the long-term as recruitment is expensive. The annual or biennial churn in workers would be disruptive for many workplaces, especially for micro businesses. There will also be no ability to switch to other visa routes for these workers. Therefore, while this proposal may have a positive effect at the margins, we should be realistic as to its likely impact.

*We hope that this response has been useful to the Committee, and would welcome any further enquiries. For more information, please contact Dr Llyr ap Gareth on [llyr.apgareth@fsb.org.uk](mailto:llyr.apgareth@fsb.org.uk), or our Wales Office at 02920 747 406.*

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<sup>15</sup> *The UK's future skills-based immigration system* (UK Government White Paper: 2018), p 16

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